

5/3/21

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RESOLUTION NO. 75-21

BY: **DEBORAH LIME**

A RESOLUTION REQUESTING COMMON SENSE
AMENDMENTS TO HOUSE BILL 1 PASSED BY THE 133RD
GENERAL ASSEMBLY, AND DECLARING AN
EMERGENCY

WHEREAS, on January 8, 2021 the Governor of Ohio, signed H.B. 1 that dealt with six areas of the criminal justice system in Ohio; Intervention in lieu of conviction; Sealing a record of conviction; Prison term for community control sanction violation; Involuntary court-ordered treatment for alcohol or drug abuse; State Criminal Sentencing Commission; and the Prohibition against restraints on a minor or adult females that are pregnant; and

WHEREAS, this Resolution deals only with the need for amendments to that portion of H.B. 1 dealing with the prohibition against restraints on a minor or adult females that are pregnant; and

WHEREAS, this new law, which took effect on April 12, 2021, prohibits law enforcement, court, and corrections officials from either restraining or confining a minor or adult female who is pregnant or who has given birth within the prior six weeks; and

WHEREAS, this new law eliminates qualified immunity and carries with it civil and criminal penalties for law enforcement, court, and corrections officials that are found to have violated the unreasonable duties, obligations, and responsibilities this law places on our safety forces; and

WHEREAS, while there does exist an emergency exception to this new law should a law enforcement, court, or corrections official determine that there exists a sudden, urgent, and unexpected occurrence that necessitates an immediate response with the use of a restraint, to wit: handcuffs, if such a determination is made then contact must be made with that person's healthcare provider and the health care provider must then be advised that the individual is to be restrained, and in what manner they are to be restrained and for how long and if the healthcare provider does not object the female may be restrained for the least amount of time necessary; in addition, HIPPA will require that health care providers not discuss the Defendant's medical condition. The law requires consent from the health care provider; and

WHEREAS, because this law eliminates qualified immunity, it subjects any law enforcement, court, or corrections official found to have violated these new restraint requirements to criminal liability for committing the offense of "interfering with civil rights" which is a misdemeanor of the first degree and also to civil liability which can include "punitive damages" and "attorney fees"; and

WHEREAS, while this new restraint law may have been introduced with the best of intentions, its unintended consequences to our hardworking and committed law enforcement, court, and corrections officials place a heavy and unreasonable burden on what is already a difficult job; and

WHEREAS, for the foregoing reasons changes must be made that reinstate qualified immunity, eliminate the burdensome notification requirements and unreasonable criminal and civil penalties to the City of Parma’s law enforcement, court, and corrections officials.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARMA, STATE OF OHIO:

Section 1. That the foregoing restraint requirements set forth in H.B. 1 which eliminate qualified immunity for our safety officials and subjects them to unnecessary criminal and civil liability places an unreasonable and heavy burden on the City of Parma’s law enforcement, court, and corrections officials.

Section 2. That the provision of H.B. 1 that require law enforcement, court, and corrections officials during an emergency to contact a person’s healthcare provider and advise the health care provider that the individual will be restrained, in what manner they will be restrained and for how long is unreasonable, not practical, and substantially impairs the functioning of Parma’s city government and its ability to protect the lives and property of the citizens of the City of Parma.

Section 3. That for all the foregoing reasons the Council of the City of Parma supports efforts to amend this newly enacted law by reinstating qualified immunity and eliminating the burdensome notification requirements and unreasonable criminal and civil penalties to the City of Parma’s law enforcement, court, and corrections officials.

Section 4. That the Clerk of Council is hereby directed to forward a true and accurate copy of this Resolution to Ohio State Representative Jeffrey Crossman; Ohio State Senator Nickie Antonio, Attorney General Dave Yost, and Governor Mike DeWine.

Section 5. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 6. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of the City of Parma, and shall become immediately effective upon receiving the affirmative vote of two-thirds of all members elected to Council and approval of the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:_____	_____ PRESIDENT OF COUNCIL
ATTEST:_____	APPROVED:_____
CLERK OF COUNCIL	
FILED WITH THE MAYOR:_____	_____ MAYOR, CITY OF PARMA, OHIO